

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division

FILED
JAN 23 2017
CLERK, US DISTRICT COURT NORFOLK, VA

BRIAN HAMPTON WATSON,

Petitioner,

v.

ACTION NO. 2:16cv136

HAROLD W. CLARKE, Director,  
Virginia Department of Corrections,

Respondent.

**FINAL ORDER**

Before the Court is a Petition for a Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254 (ECF No. 1), and the Respondent's Motion to Dismiss the Petition (ECF No. 10). In his Petition, the *pro se* Petitioner alleges violations of his constitutional rights in relation to his conviction for possession with intent to distribute a controlled substance, third or subsequent offense, on October 18, 2012, in the Prince Williams County Circuit Court. As a result of his conviction, he was sentenced to twenty years in prison.

The Petition was referred to a United States Magistrate Judge for report and recommendation pursuant to the provisions of 28 U.S.C. §§ 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia. The Magistrate Judge's Report and Recommendation (ECF No. 18) was filed on December 19, 2016 and recommends dismissal of the Petition without prejudice. On January 3, 2016, the Petitioner timely filed objections to the Report and Recommendation. The Respondent has not responded to the Petitioner's objections and the time to do so has expired.

The Court, having reviewed the record and examined the objections filed by the Petitioner to the Report and Recommendation, and having made *de novo* findings with respect to the portions objected to, does hereby **ADOPT** and **APPROVE** the findings and recommendations set forth in the Report and Recommendation (ECF No. 18) filed on December 19, 2016. Therefore, it is **ORDERED** that the Respondent's Motion to Dismiss (ECF No. 6) is **GRANTED**, and the Petition (ECF No. 1) is **DENIED** and **DISMISSED WITHOUT PREJUDICE**.

It is further **ORDERED** that Petitioner's related Motions to Dismiss Without Prejudice certain claims (ECF No. 15), to Amend the Petition (ECF No. 16), and for a Stay (ECF No. 17), be **DENIED AS MOOT**. Judgment shall be entered in favor of the Respondent.

The Petitioner may appeal from the Judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty days from the date of entry of Judgment.

The Petitioner has failed to demonstrate a substantial showing of the denial of a constitutional right, and therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. *See Miller-El v. Cockrell*, 537 U.S. 322, 335-36 (2003). The Clerk shall mail a copy of this Final Order to Petitioner and to counsel of record for the Respondent.

It is so **ORDERED**.



\_\_\_\_\_  
Arenda Wright Allen  
United States District Judge

Norfolk, Virginia  
January 13, 2017